

AMENDED IN ASSEMBLY APRIL 28, 2003

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1201

Introduced by Assembly Member Berg
(Coauthor: Assembly Member Nakanishi)

February 21, 2003

~~An act to add Section 1262.8 to the Health and Safety Code, and to add Section 14132.27~~ *An act to add Sections 14132.27 and 14132.28 to the Welfare and Institutions Code, relating to Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1201, as amended, Berg. Medi-Cal: subacute care services.

~~Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. A violation of these provisions is a crime.~~

Existing law requires a health facility to take reasonable steps, as prescribed, before a resident is transferred due to any change in the status of the license or operation of the facility, including closure or voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, to transfer the affected resident safely and minimize possible transfer trauma.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services under the direction of the Director of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Existing law specifies various benefits that may be provided under the Medi-Cal program, and includes subacute care services as a covered benefit, subject to utilization controls. Existing law authorizes the department to negotiate and execute agreements with health facilities that meet certain standards to provide subacute care services.

This bill would require a health facility that has a subacute care services provider contract with the department to comply with certain patient transfer and discharge requirements. The bill would grant to a resident the right to appeal any proposed transfer or discharge, require the facility to provide notice of this right, and apply to the appeal all rights and procedures that apply to the appeal of the transfer or discharge of a nursing facility resident.

~~Because this bill would add to the requirements of a health facility, a violation of which would be a crime, this bill would impose a state-mandated local program.~~

This bill would establish notice and appeal procedures that would apply if the department decides to terminate or not renew a health facility's subacute care services provider contract. The bill would require, ~~upon a final decision to terminate or not renew the health facility's subacute care services provider contract,~~ the department, *after making the specified notification*, to provide guidance to a health facility regarding expectations for the transfer of residents. The bill would specify facility compensation and level of care requirements that would apply ~~until a resident is transferred prior to any transfer.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes no*.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 1262.8 is added to the Health and Safety~~
- 2 ~~Code, to read:~~
- 3 ~~1262.8. (a) A health facility that has a Medi-Cal program~~
- 4 ~~subacute care services provider contract with the department shall~~

1 ~~comply with the patient transfer and discharge requirements of this~~
2 ~~section.~~

3 ~~(b) Before residents are transferred due to any change in the~~
4 ~~status of the license or operation of the facility, including the~~
5 ~~termination of the subacute care services provider contract by the~~
6 ~~department, the facility shall comply with the transfer and~~
7 ~~discharge requirements of Section 1336.2, Section 483.12(a) of~~
8 ~~Title 42 of the Code of Federal Regulations, and any other state and~~
9 ~~federal laws applicable to the transfer and discharge of residents~~
10 ~~of a nursing facility, as defined in subdivision (k) of Section 1250.~~

11 ~~(c) A resident shall have the right to appeal any proposed~~
12 ~~transfer or discharge. The facility shall ensure that each resident~~
13 ~~and his or her representative is notified, in writing and in a~~
14 ~~language and manner they understand, of this right to appeal. All~~
15 ~~of the rights and procedures that apply to the appeal of the transfer~~
16 ~~or discharge of a nursing facility resident shall apply to an appeal~~
17 ~~pursuant to this subdivision.~~

18 ~~SEC. 2.—~~

19 ~~SECTION 1.~~ Section 14132.27 is added to the Welfare and
20 Institutions Code, to read:

21 14132.27. (a) ~~(1)~~ If the department decides to terminate or
22 not renew a health facility's subacute care services provider
23 contract, the department shall notify the health facility 30 days
24 ~~before the decision becomes final.~~

25 ~~(2) The health facility may appeal the department's decision~~
26 ~~within 30 days from receipt of the notice. Proceedings for the~~
27 ~~termination or nonrenewal of a subacute care services contract~~
28 ~~shall be conducted in accordance with Section 100171 of the~~
29 ~~Health and Safety Code.~~

30 ~~(b) (1) Once the decision to terminate or not renew a health~~
31 ~~facility's subacute care services provider contract is final, the~~
32 ~~before the termination or nonrenewal becomes effective.~~

33 ~~(b) Once the department has notified the health facility~~
34 ~~pursuant to subdivision (a), the department shall provide guidance~~
35 ~~to the health facility regarding expectations for the transfer of~~
36 ~~residents. The guidance shall consider the need to minimize~~
37 ~~trauma of a resident due to transfer, and shall ensure, prior to any~~
38 ~~transfer or discharge, that the facility has complied with the~~
39 ~~transfer and discharge requirements of Section 1336.2 of the~~
40 ~~Health and Safety Code, subsection (a) of Section 483.12 of Title~~

1 42 of the Code of Federal Regulations, and any other state and
2 federal laws applicable to the transfer and discharge of residents
3 of a nursing facility, as defined in subdivision (k) of Section 1250
4 of the Health and Safety Code. The department's Medi-Cal
5 division shall coordinate with the department's Licensing and
6 Certification Division in developing the guidance for ~~transfer of~~
7 ~~residents the protection of residents' transfer rights.~~

8 (2) ~~Until each resident is transferred~~ Prior to any transfer, the
9 health facility shall continue to provide the subacute level of care
10 required by ~~each~~ a resident and the health facility shall continue
11 to be paid commensurate with that subacute level of care.

12 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
13 ~~Section 6 of Article XIII B of the California Constitution because~~
14 ~~the only costs that may be incurred by a local agency or school~~
15 ~~district will be incurred because this act creates a new crime or~~
16 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
17 ~~for a crime or infraction, within the meaning of Section 17556 of~~
18 ~~the Government Code, or changes the definition of a crime within~~
19 ~~the meaning of Section 6 of Article XIII B of the California~~
20 ~~Constitution.~~

21 SEC. 2. Section 14132.28 is added to the Welfare and
22 Institutions Code, to read:

23 14132.28. (a) A health facility that has a subacute care
24 services provider contract with the department under this chapter
25 shall comply with the patient transfer and discharge requirements
26 of this section.

27 (b) Before residents are transferred due to any change in the
28 status of the license or operation of the facility, including the
29 termination of the subacute care services provider contract by the
30 department, the facility shall comply with the transfer and
31 discharge requirements of Section 1336.2 of the Health and Safety
32 Code, subsection (a) of Section 483.12 of Title 42 of the Code of
33 Federal Regulations, and any other state and federal laws
34 applicable to the transfer and discharge of residents of a nursing
35 facility, as defined in subdivision (k) of Section 1250 of the Health
36 and Safety Code.

37 (c) All of the rights and procedures that apply to the appeal of
38 the transfer or discharge of a nursing facility resident pursuant to
39 the sections cited in subdivision (b) shall apply to an appeal
40 pursuant to this subdivision. The facility shall ensure that each

1 *resident and resident's representative is notified of this right to*
2 *appeal. The notification shall be in writing and shall be*
3 *communicated in a language and manner that is understood by the*
4 *resident or resident's representative.*

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